

COREY LOUIS HINES,)
)
Petitioner,)
)
v.) No. 4:10-CV-1826-LMB
)
LISA J.W. HOLLINGWORTH,)
)
Respondent.)

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks to overturn a 2005 municipal court conviction, for which he received ninety days in jail. Petitioner is currently serving a federal sentence for other charges and is imprisoned in USP Marion.

District courts have jurisdiction to entertain petitions for habeas relief only from persons who are “*in custody* in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3) (emphasis added). The custody requirement is fulfilled when a petitioner is in custody “under the conviction or sentence under attack at the time his petition is filed.” Maleng v. Cook, 490 U.S. 488, 490-91 (1989). Where, as is the case here, the sentence under attack has fully expired, the custody requirement is not met. Id. As a result, the Court does not have jurisdiction over the

petition, and the Court will dismiss it. See Fed. R. Civ. P. 12(h)(3); Rule 4 of the Rules Governing § 2254 Cases.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion to proceed in forma pauperis is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's petition for habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED**.

An Order of Dismissal will be filed with this Memorandum and Order.

Dated this 25th day of October, 2010.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE